IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 15443 of 2006

Dated 8th November, 2006

Between
Smt.Karyamsetty Elizabeth Manorama Bai

….Petitioner

and

The Director of Collegiate Education, AP, Hyderabad and ors.

…Respondents

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15443 of 2006

ORDER:

The petitioner who claims to be the senior-most lecturer in the fourth respondent-college and is presently discharging the functions of Principal, has filed this Writ Petition questioning the order dated 19-7-2006 in proceedings Rc.No.61/B1/2006 passed by the Regional Joint Director of Collegiate Education, Guntur.

The petitioner and fifth respondent are the lecturers in the third respondent-educational institutions. The firth respondent earlier filed Writ Petition No.1115 of 2006, in which the petitioner herein was made

as third respondent, questioning the order dated 31-7-2005 issued by the management appointing the petitioner herein as first Vice-Principal. It was the case of the petitioner in the said Writ Petition that the said orders were issued ignoring the seniority. In the said Writ petition, the petitioner therein claimed seniority over the petitioner herein on the ground that he was appointed initially as lecturer on 14-11-1974, whereas the petitioner herein was appointed as demonstrator in the year 1977. The said Writ Petition was disposed of by order dated 24-01-2006 keeping open to the petitioner therein to avail alternative remedy of appeal before the appellate authority. Consequently the fifth respondent herein has filed appeal before the appellate authority-Regional Joint Director of Collegiate Education on 27-01-2006 and basing on the same, the appellate authority has passed the impugned order dated 19-7-2006 in proceedings Rc.No.61/B/2006, declaring the fifth respondent herein as senior to the petitioner in the cadre of lecturers.

The aforesaid order is questioned in the present Writ Petition mainly, on the ground that the inter se seniority list was prepared in the year 1996, but however, the fifth respondent has obtained declaration from the Regional Joint Director of Collegiate Education, by filing appeal pursuant to the direction of this Court in the Writ Petition No.1115 of 2006, behind the back of the petitioner. It is the case of the petitioner that she was appointed in the year 1977 as Demonstrator, which is equivalent to the post of Lecturer, in the aided vacancy; whereas it is the case of the fifth respondent that he was appointed as lecturer in the year 1974; in that view of the matter, he is senior to the petitioner. With regard to the merits of the claims, having regard to the order which I propose to pass now, I need not go into the merits of the case. Undisputedly, the petitioner was not given notice or opportunity

before passing the impugned order dt.19-7-2006 in the appeal filed by the fifth respondent. From the operative portion of the impugned order, it is declared that the fifth respondent is senior to the petitioner.

Under the provisions of the Andhra Pradesh Education Act, 1982, appeal remedy is provided under Section 89 of the Act. Though, pursuant to the order of this Court dated 24-01-2006 in Writ Petition No. 1115 of 2006 the fifth respondent has filed appeal within the time stipulated in the said order, but however, while disposing of the said appeal preferred by the fifth respondent, the Regional Joint Director of Collegiate Education ought to have issued prior notice to all the affected persons, particularly, the petitioner herein, when the fifth respondent has sought relief to declare him as senior to the petitioner in the cadre of lecturer.

Though counter affidavits are filed by the respondents, but, it is not in dispute that the impugned order is not preceded by prior notice and opportunity to the petitioner. Earlier, as against the impugned order of the Regional Joint director of Collegiate Education, the management has also preferred further appeal/revision before the Government and it is stated that the same is pending consideration. But, as much as the appellate authority has decided the appeal preferred by the fifth respondent, declaring the fifth respondent as senior to the petitioner without any opportunity or prior notice to the petitioner, the impugned order is liable to be set aside on the ground that the same is passed in violation of principles of natural justice. Accordingly without going into the merits of the respective claims with regard to seniority, I dispose of the Writ Petition by setting aside the order dated 19-7-2006 in proceedings Rc.No.61/B1/2006 and direct the Regional Joint Director of Collegiate Education, Guntur, to dispose

of the appeal preferred by the fifth respondent afresh, on merits. It is stated that as much as the petitioner, contesting fifth respondent and management are represented by Advocates before this Court, and if they have any objection to the appeal, they are permitted to file the same within a period of one week from today before the appellate authority. Further, as It is stated by the learned Standing Counsel appearing for the fifth respondent that the fifth respondent is attaining superannuation by the end of December, 2006, I direct the second respondent to dispose of the appeal within a period of three weeks from today. It is made clear that without awaiting for any formal notice from the office of the Regional Joint director of Collegiate Education, the petitioner, contesting respondent and management shall ascertain the date of hearing and appear on the date fixed by the Regional Joint Director of Collegiate Education.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 08-11-2006
CC by tomorrow
(BO)
Msnr.